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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,256	06/01/2001	Charles A Eldering	T702-15	4893
27832	7590	10/03/2005	EXAMINER	
TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME 6206 KELLERS CHURCH ROAD PIPERSVILLE, PA 18947			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,256

Applicant(s)

ELDERING ET AL.

Examiner

Annan Q. Shang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 170-320 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 170-320 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01 June 2001</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. At least claims 170, 171, 176, 177, 182-185, 189, 199-202, 206, 216, 218, 220, 221, 228, 230, 239, 240, 242, 250, 251-254, 258, 272 283, 284, 289-297, 311, 312 and 319 are rejected under 35 U.S.C. 102(e) as being anticipated by **Alexander et al (6177,931)**.

As for a representative broad claims like 216, 220, 221, 228, Alexander can be applied to teach an apparatus and method for generating a subscriber profile for a user of television programming (profile is described in section H starting in col.28), the method comprising:

Monitoring user viewing activities (col.28, lines 30-32);

Collecting subscriber selection data based on source material selected by the user over a predetermined period of time (col.28 lines 33-45 wherein channel change is

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selection, source could be channel number or EPG vs non-EPG and 'each time' this happens is considered all of the time, also note the external sources in col.28, lines 60-62); and

Processing the subscriber selection data to create a subscriber profile (i.e. viewer profile), where in said processing the subscriber selection data includes generating one or more program characteristics vectors based on the subscriber selection data (the identification information described that is stored is considered a vector since is at its basic element a number or one dimensional vector, also see col.29, Section 2).

Claims 230, 239, 240, 242, 250, 251, 252-254, 258 are similar in scope but also include further limitations addressed below.

The n-dimensional matrix of claim 230 is met by the identification of programming that was displayed on the channel in col.28 l-30-45 and col.30, lines 1-5.

As for the interests of the household as required in claim 235, note col.29, lines 55+ where preferences are determined which is considered a household interest.

As for the type of programming requirement in claim 239, note col.29 where they types of programs watched are recorded and analyzed.

As for the product preference profile required in claim 240, the examiner considered the type of television show (as disclosed in col.29) a product preference.

As for the probable measurements of household interests found in claims 242, 243, 253 and , the statistical analysis of the programs (i.e. products) watched (col.29, lines 36+) are used to determine the household (viewers) interests (preferences).

As for the volume change tracking required in at least claims 250 see, col.28, lines 45-47.

Note the times of selection is also disclosed in Alexander in col.29, wherein sessions are noted as well as in lines 50-55; As required in claim 251.

Note the descriptive fields, could be met by 'identification information', subject of the program, type of theme etc. As required in claims 252, 253, 254, 258 and 295.

Similarly, claim 171 which is a representative broad claim could be met by Alexander in that there is taught a data processing method and system for monitoring advertisements watched by a subscriber, said data processing system comprising:

Means for monitoring subscriber activities (col.28, lines 30-32);

Means for storing the subscribers activities (same citation EPG records i.e. stores);

Means for retrieving advertisement related information, wherein the advertisement related information contains descriptive fields corresponding to an advertisement (note ad is identified which is a description col.28, lines 39-42);

Means for determining the extent to which the advertisement is viewed by the subscriber (general interest in product advertising in col.30, lines 17-25 as well as col.28, lines 55-57);

Means for determining a subscriber products interest profile (col.30, lines 1-44);
and

Means for storing said profile (profile is recorded).

As for the volume change tracking required in at least claims 170, 182, 199, 218, 293 see, col.28, lines 45-47.

Note the client server claims of 176 are met as above with EPG being the client and the head end being the server each with memories that store and analyze the data (col.29, lines 15-21).

As for the type of programming requirement in claim 239, note col.29 where they types of programs watched are recorded and analyzed.

Claims 183, 184 and require the selection of source material this is met by Alexander, col.29, lines 30-45.

As for the product preference profile required in claims 177, 185, 202, 290, 297 the examiner considered the type of television show (as disclosed in col.29) a product preference.

As for the probable measurements of household interests found in claims 184, 201, 242, 243, 253, 296 and 312-313, the statistical analysis of the programs (i.e. products) watched (col.29, lines 36+) are used to determine the household (viewers) interests (preferences).

As for the household demographics calculation required in claims 183, 200, 295, 311 note col.30, lines 30-37.

Alexander notes specific view sessions as required in claims 189, 206 , 216, 294 see col.29, lines 40-44.

Regarding claims 271, 283, Alexander teaches that all volume changes are noted which would also include those made during ads and the circumstances surrounding them (i.e. the type of content or descriptive field).

As for the channel change requirements in claims 176, 272, 284, 289, 291-29 note that all channel changes are recorded col.28, lines 30-45 and thus those changes could happen during ads. This data is analyzed to see general interest in product advertisements (col.30, lines 20-25).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 170, 171, 176, 177, 182-185, 189, 190, 199-202, 206, 207, 215, 216, 218, 221, 228, 230, 238, 239, 240, 242, 250, 251-254, 258, 259, 272 283, 284, 289-297, 311, 312 and 319 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6177,931)**.

Several claims require that profiles be updated based on average viewing sessions. While Alexander fails to use the term average, he does teach that the profile is updated after each use. Therefore, if one were to consider the updating as a

weighted average, it would have been obvious to one of ordinary skill to use an average to help predict user preferences to gain more revenue in targeted advertising (Alexander col.29, line 10).

Several claims also require that the hardware be on either the server side or receiver side. While Alexander teaches that processing can be done on either side, if one were not to consider this as anticipation than it would have been obvious to one of ordinary skill since Alexander teaches that it could be on either side and thus not a critical function.

Claims 170-320 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6177,931)**.

As shown above Alexander teaches many of the elements in the claims.

Many claims require that the profile be calculated by heuristic rules, such as 191, 196, 208, 213, 231, 260, 268, 269, 303 and 308. While Alexander fails to use the term heuristic rules, he does teach that using the basic viewer profile data the simple statistics collected about a particular viewer, the profile program learns to recognize a finer breakdown about the various types of data collected and uses the learned information to describe a viewer preference and furthermore the profile program performs multiple levels of sophisticated analysis and learning involving numerous comparisons of basic viewer profile data and the simple statistics collected about a particular viewer (col.28, lines 11-21 and col.29, line 56-col. 30, line 16). Since the

learning process involves the use of statistical data or set of rules, it would have been obvious to one of ordinary skill to combine heuristic rules with the teachings of Alexander to quickly determine user preferences to gain more revenue in targeted advertising (Alexander col.29, line 10).

5. Claims 170-320 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6177,931)** in view of **Corey et al (5,703,655)**.

As shown above Alexander teaches many of the elements in the claims.

Many claims require the data for profiling be supplied from context mining (such as 172-175, 178-181, 186, 187, 203, 255-256, 285, 298 and 314) from closed captions. While Alexander fails to explicitly teach mining closed captioning text, he does teach data-mining search queries to locate and deliver content that matches the viewer profiled of interests (col.31, lines 48-61). However in the same field of endeavor, **Corey** teaches such technique, such as extracting closed captioning text or text related to programming segments is well known (figs 1-2, col.5, line 31-col.6, line 31 and col.7, line 41-col.8, line 1+) and in fact has the advantage of retrieving desired video programming segments

Therefore it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Corey into the system of Alexander to retrieval closed captioning text related to the programming segments to quickly determine user profile to gain more revenue in targeted advertising.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Herz et al (5,835,087) disclose system for generation of object profiles for a system for customized electronic identification of desirable objects.

Chang (5,768,592) discloses method and apparatus for managing profile data.

Hendricks et al (6,738,978) disclose method and apparatus for targeted advertising.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at 866-217-9197 (toll-free).



Annan Q. Shang.



CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600